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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,165

05/04/2006

Korf Madsen Lasse

LASSEIPCT

4624

25889

7590

04/21/2008

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EXAMINER

BASTIANELLI, JOHN

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

04/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,165	Applicant(s) LASSE, KORF MADSEN	
	Examiner John Bastianelli	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Duncan US 3,737,144.

Nanz discloses a throttle flap valve having a ring-shaped, elastic seal element 5 that surrounds an axial opening, having a valve disk 1 disposed to rotate in the axial opening, crosswise to the axial direction, having means for turning 3 the valve disk between the open and the closed positions, to control a flow of fluid through the opening, having at least two valve housing parts 31 that surround the seal element in ring shape, which surround two flanges 21 and 28 connected with an inflow and an outflow, whereby conical contact surfaces of the flanges and/or the valve housing parts work together in such a manner that the flanges are pressed axially against the seal element, forming a seal, by means of the valve housing parts, in the assembled state ready for operation, wherein the flanges are rigidly connected with the valve housing parts, forming a positive lock, in each instance. The valve housing parts are two clamp halves, the inner surfaces of the clamp halves are in contact with the seal element have two ring shaped depressions that surround the flanges (seen as the inside corners of the clamp in Fig. 4) , and these depressions are beveled (as they are slanted). The flanges narrow conically toward the outside (Fig. 4). The valve housing parts have two ring shaped recess (see Figs. 5-6) for the disc shafts. The flanges

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are shaped to have rotation symmetry as there is nothing prohibiting the flanges from rotating with enough force applied. The method of claim 11 is seen as practiced by the apparatus and also is product by process. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113). The valve is seen to be able to be made in this manner.

3. Claims 1-2, 5, 7, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Nanz et al. US 4,653,725.

Nanz discloses a throttle flap valve having a ring-shaped, elastic seal element 18 that surrounds an axial opening, having a valve disk 24 disposed to rotate in the axial opening, crosswise to the axial direction, having means for turning 60 the valve disk between the open and the closed positions, to control a flow of fluid through the opening, having at least two valve housing parts 34, 35 that surround the seal element in ring shape, which surround two flanges 14 connected with an inflow and an outflow, whereby conical contact surfaces of the flanges and/or the valve housing parts work together in such a manner that the flanges are pressed axially against the seal element, forming a seal, by means of the valve housing parts, in the assembled state ready for operation, wherein the flanges are rigidly connected with the valve housing parts, forming a positive lock, in each instance. The valve housing parts are two clamp halves. The flanges narrow conically toward the outside (when looked at in the direction of the hatching of the drawing in Fig. 2, they narrow conically). The valve housing parts have two ring shaped recess (see Fig. 1) for the disc shafts. The means for turning is an automatic setting element. The flanges are shaped to have rotation symmetry as there is nothing prohibiting the flanges from

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rotating with enough force applied. The method of claim 11 is seen as practiced by the apparatus and also is product by process. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113). The valve is seen to be able to be made in this manner.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Alternatively, claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan US 3,737,144 in view of Adamek et al. US 5,080,400.

Duncan lacks the claim language of 3-5 if interpreted another way (see claim objections above).

Adamek discloses two ring shaped depressions (Figs. 1 and 2) that surround the flanges, these depressions are beveled, and the flanges narrow conically toward the outside. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the two ring shaped depressions that surround the flanges that are beveled and the flanges narrow conically toward the outside as disclosed by Adamek as the connection feature of Duncan in order to more securely hold the flanges to the valve housing parts.

6. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan US 3,737,144 in view of Holtgraver US 4,148,458.

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Duncan discloses a screw 40 but lacks screws and nuts to connect the valve housing parts.

Holtgraver discloses screws and nuts (Fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the screws and nuts as disclosed by Holtgraver as the connection feature of Duncan as a simple substitution of one known element for another. Duncan lacks a hand wheel. Holtgraver discloses a hand wheel (Fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the hand wheel as disclosed by Holtgraver as the actuator of Duncan as a simple substitution of one known element for another.

7. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nanz et al. US 4,653,725 in view of Holtgraver US 4,148,458.

Nanz discloses a screw 38 but lacks screws and nuts to connect the valve housing parts.

Holtgraver discloses screws and nuts (Fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the screws and nuts as disclosed by Holtgraver as the connection feature of Nanz as a simple substitution of one known element for another. Nanz lacks a hand wheel. Holtgraver discloses a hand wheel (Fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the hand wheel as disclosed by Holtgraver as the actuator of Nanz as a simple substitution of one known element for another.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan US 3,737,144 in view of Nanz et al. US 4,653,725.

Duncan lacks an automatic setting element. Nanz discloses an automatic setting element. It would have been obvious to one having ordinary skill in the art at the time the invention was

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made to use the automatic setting element as disclosed by Nanz as the actuator of Duncan as a simple substitution of one known element for another to be able to actuate the valve other than by hand.

Response to Arguments

9. Applicant's arguments filed February 19, 2008 have been fully considered but they are not persuasive. The applicant appears to be reading more into the amendment of claim 1 than is actually recited. The amended claim specifically states "and wherein the flanges (3) are shaped to have rotation symmetry". The examiner takes this to mean that the flanges and only the flanges need to have the shape to have the possibility to rotate in relation to one another which is disclosed in both Duncan as 21 and 28 and Nanz 14 may be rotated with enough force as there is no anti-rotation pin or such to prohibit this. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The examiner would like to note that the applicant has not even shown what rotation symmetry is or even how Duncan or Franz does not have it. Also, in regards to the specification in paragraph 0015 where this is described, both Duncan and Franz are seen to have "rotation symmetry" as any desired orientation can be made by rotating the entire valve and seal in relation to the flanges to make any desired orientation of 360 degrees thus are seen to have "rotation symmetry".

10. The examiner would like to note that claim 11 was rejected in the body of the 102 claims previously and added to the heading that was missing previously.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Bastianelli whose telephone number is (571) 272-4921. The examiner can normally be reached on M-Th (8-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Bastianelli
Primary Examiner
Art Unit 3753

/John Bastianelli/
Primary Examiner, Art Unit 3753

Search Notes

Application/Control No.

10/578,165

Examiner

John Bastianelli

Applicant(s)/Patent under
Reexamination

LASSE, KORF MADSEN

Art Unit

3753

SEARCHED

Class	Subclass	Date	Examiner
251	305-308 148	4/17/2008	JB
285	365-367		

INTERFERENCE SEARCHED

Class	Subclass	Date	Examiner

**SEARCH NOTES
(INCLUDING SEARCH STRATEGY)**

	DATE	EXMR
EAST with forward and backward citations performed (see printout)	4/17/2008	JB